

EXHIBIT 1

INTRODUCTION

Respondent Robert Kudler is the sole owner of Respondent K & W Aviation. During the months leading up to the November 4, 1997 General Municipal Election in the City of Lynwood, Respondents Robert Kudler and K&W Aviation made independent expenditures in excess of \$1,000 in support of the election of a slate of candidates for the City Council. Respondents thereby qualified as an independent expenditure committee with campaign reporting obligations. Respondents then failed to timely file late independent expenditure reports, and a semi-annual campaign statement, and failed to maintain required campaign records, in violation of the Political Reform Act (the "Act").¹

For the purposes of this Stipulation, Respondents' violations of the Act are stated as follows:

COUNT 1: Respondents Robert Kudler and K&W Aviation failed to file a late independent expenditure report by November 1, 1997, disclosing expenditures totaling \$1,998, which Respondents made on behalf of City Council candidate Armando Rea, on October 24, 1997 and October 31, 1997, in violation of section 84204 of the Government Code.

COUNT 2: Respondents Robert Kudler and K&W Aviation failed to file a late independent expenditure report by November 1, 1997, disclosing expenditures totaling \$1,998, which Respondents made on behalf of City Council candidate Arturo Reyes, on October 24, 1997 and October 31, 1997, in violation of section 84204, of the Government Code.

COUNT 3: Respondents Robert Kudler and K&W Aviation failed to file a late independent expenditure report by November 1, 1997, disclosing expenditures totaling \$1,998, which Respondents made on behalf of City Council candidate Ricardo Sanchez, on October 24, 1997 and October 31, 1997, in violation of section 84204 of the Government Code.

COUNT 4: Respondents Robert Kudler and K&W Aviation failed to file a late independent expenditure report by November 1, 1997, disclosing expenditures totaling \$1,998, which Respondents made on behalf of City Council candidate Patricia Carr, on October 24, 1997 and October 31, 1997, in violation of section

¹ The Political Reform Act is contained in sections 81000 through 91014 of the Government Code. All statutory references are to the Government Code unless otherwise indicated. The regulations of the Fair Political Practices Commission, enacted pursuant to the provisions of the Act, are contained in sections 18000, *et seq.*, of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

84204 of the Government Code.

COUNT 5: Respondents Robert Kudler and K&W Aviation failed to file a late independent expenditure report by November 1, 1997, disclosing expenditures totaling \$1,998, which Respondents made on behalf of City Council candidate Dale L. Jones, on October 24, 1997 and October 31, 1997, in violation of section 84204 of the Government Code.

COUNT 6: Respondents Robert Kudler and K&W Aviation failed to file a semi-annual independent expenditure campaign report by February 2, 1998, covering the period January 1, 1997 through December 31, 1997, in violation of section 84200, subdivision (b) of the Government Code.

COUNT 7: Respondents Robert Kudler and A&W Aviation failed to maintain detailed records and accounts for a period of four years, as were necessary to properly prepare the campaign disclosure statements which were required to be filed no later than November 1, 1997 and February 2, 1998, in violation of section 84104 of the Government Code.

SUMMARY OF THE LAW

Campaign Disclosure

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that the contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed, and so that improper practices may be inhibited. The Act therefore establishes a campaign reporting system designed to accomplish this purpose of disclosure.

1. Independent Expenditure Committee

Section 82031 states, in pertinent part, that “‘Independent Expenditure’ means an expenditure made by any person in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate . . . but which is not made to or at the behest of the affected candidate or committee.” Under section 82013, subdivision (b), any person or combination of persons who makes independent expenditures of \$1,000 or more in a calendar year qualifies as a “committee.” Section 84200, subdivision (b) states that any person or persons who constitute a committee, pursuant to section 82013, subdivision (b), is required to file a semi-annual campaign statement each year, no later than July 31, to disclose contributions and expenditures that occur during the semi-annual reporting period ending June 30, and no later than January 31, to disclose contributions and expenditures that occur during the semi-annual reporting period ending December 31.

2. Late Independent Expenditure Reports

As provided in section 82036.5, a “late independent expenditure” means any independent expenditure which totals in the aggregate one thousand dollars (\$1,000) or more, and is made for or against any specific candidate or measure involved in an election before the date of the election, but after the closing date of the last campaign statement required to be filed prior to the election, by a candidate or committee participating in such election.

Each candidate or committee that makes a late independent expenditure must report it by mailgram, telegram, guaranteed overnight mail through the United States Postal Service, or personal delivery, within 24 hours of the time it is made. (Sec. 84204, subd. (a).) A late independent expenditure shall be reported on subsequent campaign statements without regard to the reports filed pursuant to this section.

Late independent expenditure reporting serves an important function by informing voters of independent expenditures made during the crucial last two weeks prior to an election. The late independent expenditure reporting period for the November 4, 1997 election was October 19, 1997 through November 3, 1997.

Duty to Maintain Records:

To ensure accurate campaign reporting, Section 84104 imposes a mandatory duty on each candidate, treasurer, and elected officer to maintain detailed accounts, records, bills and receipts that are necessary to prepare campaign statements, and to comply with the campaign reporting provisions of the Act. Under regulation 18401, subdivisions (a)(1) - (a)(3), this duty includes maintaining original source documentation for all contributions and expenditures, which under subdivision (b)(2) is required to be retained for a period of four years following the filing date of the campaign statement to which the documentation relates.

SUMMARY OF THE FACTS

In connection with the November 1997 General Municipal Election in the City of Lynwood, Respondents Robert Kudler and K&W Aviation made independent expenditures in excess of \$1,000 in the calendar year 1997, and therefore qualified as an independent expenditure committee. Respondent Robert Kudler and K&W Aviation made late independent expenditures in support of five candidates for the Lynwood City Council. Respondents failed to report these expenditures, as required by the Act.

On October 21, 1999, and on March 16, 2001, Commission Investigator Sandra Buckner interviewed Respondent Robert Kudler regarding the General Municipal Election in the City of Lynwood in November 1997. Respondent Kudler stated that in that election, he provided the funding for a campaign of mass mailings sent in support of a coalition of candidates for the Lynwood City

Council, consisting of Armando Rea, Arturo Reyes, Ricardo Sanchez, Dale Jones and Patricia Carr. Respondent Kudler stated that he wrote checks to pay for these mailings from the account of Respondent K&W Aviation, a business he started in 1981. Respondent Kudler stated that he is now, and at the time he wrote the checks was, the sole owner of Respondent K&W Aviation. Respondent Kudler stated that the mailings were not coordinated with the candidates themselves.

In response to a subpoena, Respondent Kudler provided bank records of K&W Aviation, which included the following ten cancelled checks, all in the amount of \$999, written from Respondent K&W Aviation's account and signed by Respondent Robert Kudler:

- 1) Check # 2039, dated October 24, 1997, made payable "TO U.S. POSTMASTER" – note in memo section: "Per Independent Committee for Armando Rea"
- 2) Check # 2040, dated October 24, 1997, payable "TO U.S. POSTMASTER" – note in memo section: "Per Independent Committee for Arturo Reyes"
- 3) Check # 2041, dated October 24, 1997, payable to "Norwalk Printing" – note in memo section: "Per Independent Committee for Rick Sanchez"
- 4) Check # 2042, dated October 24, 1997, payable to "Norwalk Printing" – note in memo section: "Per Independent Committee for Pat Carr"
- 5) Check # 2043, dated October 24, 1997, payable to "Norwalk Printing" – note in memo section: "Per Independent Committee for Dale Jones"
- 6) Check # 2044, dated October 31, 1997, payable to "Norwalk Printing" – note in memo section: "Per Independent Committee for Armando Rea"
- 7) Check # 2045, dated October 31, 1997, payable to "Norwalk Printing" – note in memo section: "Per Independent Committee for Arturo Reyes"
- 8) Check # 2046, dated October 31, 1997, payable to "Norwalk Printing" – note in memo section: "Per Independent Committee for Rick Sanchez"
- 9) Check # 2047, dated October 31, 1997, payable to "Norwalk Printing" – note in memo section: "Per Independent Committee for Pat Carr"
- 10) Check # 2048, dated October 31, 1997, payable to "Norwalk Printing" – note in memo section: "Per Independent Committee for Dale Jones"

On March 16, 2001, Investigator Buckner interviewed Mark Kudler, Respondent Robert Kudler's son. Mark Kudler stated that he is President of Bulletin Displays, an outdoor advertising business. Mark Kudler stated that Bulletin Displays was being "extorted" by members of the Lynwood City Council in relation to its ability to do business in Lynwood. As a result, Mark Kudler stated that his father wanted to conduct an independent expenditure campaign to support certain candidates for the Lynwood City Council. Mark Kudler stated that he wanted to help his father and he entered into an agreement with Leo Briones for political consulting with respect to the 1997 Lynwood City Council election. Mark Kudler stated that Briones advised the Kudlers on how to send mass mailings and they asked him to handle it "from A to Z." Mark Kudler stated that Briones advised him of his reporting

requirements and he assumed Briones had taken care of it. According to Mark Kudler, Bulletin Displays paid Briones for consulting services, and he, Mark Kudler, had nothing to do with the checks his father wrote from the account of K&W Aviation.

On February 1, 2001, Investigator Buckner interviewed Leo Briones, sole owner of Centaur North Strategic Communications, regarding the 1997 General Municipal election in Lynwood. Mr. Briones stated that he had been hired by Bulletin Displays to give political advice concerning the City of Lynwood. Mr. Briones stated that Bulletin Displays wanted to help specific city council candidates and he assisted with that. Mr. Briones stated that, as a favor to Mark Kudler, he filled out late independent expenditure reports for K&W Aviation and faxed them to the opposing candidates. He stated that he did not know the late independent expenditure reports also had to be filed with the city clerk. He also stated that he had never filed any of these reports before, that he is not qualified to advise people on their filing requirements, and that this normally was not a service he provides to his clients.

When Investigator Buckner showed Respondent Robert Kudler copies of the late independent expenditure reports that Mr. Briones had faxed to the other candidates on behalf of K&W Aviation, he stated that he did not provide any of the information contained in the reports, and he never reviewed them.

COUNT 1

On October 24, 1997, Respondents Robert Kudler and K&W Aviation issued a check for \$999 payable to "U.S. POSTMASTER," and on October 31, 1997, Respondents Robert Kudler and K&W Aviation issued a second check for \$999 to "Norwalk Printing." Both expenditures were made to help finance a mass mailing on behalf of Lynwood City Council candidate Armando Rea.

Having thus made independent expenditures totaling \$1,000 or greater to support a candidate for the Lynwood City Council, Respondents qualified as an independent expenditure committee and, notwithstanding any other reporting requirements, they were required to file late independent expenditure reports disclosing any independent expenditures of \$1,000 or more, that they made in support of a particular candidate, during the late reporting period. Late independent expenditure reports must be filed within 24 hours of the time the expenditure was made.

Because Respondents Robert Kudler and K&W Aviation, as of October 31, 1997, had made over \$1,000 in late independent expenditures supporting Armando Rea, as a consequence of issuing the two \$999 checks, they were required to file a late independent expenditure report disclosing these expenditures no later than November 1, 1997. Respondents failed to file that report. By failing to file a late independent expenditure report, reporting two \$999 expenditures in support of City Council candidate Armando Rea, no later than November 1, 1997, Respondents Robert Kudler and K&W Aviation violated Government Code section 84204.

COUNT 2

On October 24, 1997, Respondents Robert Kudler and K&W Aviation issued a check for \$999 payable to “U.S. POSTMASTER,” and on October 31, 1997, Respondents Robert Kudler and K&W Aviation issued a second check for \$999 to “Norwalk Printing.” Both expenditures were made to help finance a mass mailing on behalf of Lynwood City Council candidate Arturo Reyes.

Having qualified as an independent expenditure committee, notwithstanding any other reporting requirements, Respondents Robert Kudler and K&W Aviation were required to file late independent expenditure reports disclosing any independent expenditures of \$1,000 or more, that they made in support of a particular candidate, during the late reporting period. Late independent expenditure reports must be filed within 24 hours of the time the expenditure was made.

Because Respondents Robert Kudler and K&W Aviation, as of October 31, 1997, had made over \$1,000 in late independent expenditures supporting Arturo Reyes, as a consequence of issuing the two \$999 checks, they were required to file a late independent expenditure report disclosing these expenditures no later than November 1, 1997. Respondents failed to file that report. By failing to file a late independent expenditure report, reporting these two \$999 expenditures in support of City Council candidate Arturo Reyes, no later than November 1, 1997, Respondents Robert Kudler and K&W Aviation violated Government Code section 84204.

COUNT 3

On October 24, 1997, Respondents Robert Kudler and K&W Aviation issued a check for \$999 to “Norwalk Printing,” and on October 31, 1997, Respondents Robert Kudler and K&W Aviation issued a second check for \$999 to “Norwalk Printing.” Both expenditures were made to help finance a mass mailing on behalf of Lynwood City Council candidate Ricardo Sanchez.

Having qualified as an independent expenditure committee, notwithstanding any other reporting requirements, Respondents Robert Kudler and K&W Aviation were required to file late independent expenditure reports disclosing any independent expenditures of \$1,000 or more, that they made in support of a particular candidate, during the late reporting period. A late independent expenditure report must be filed within 24 hours of the time a late independent expenditure is made.

Because Respondents Robert Kudler and K&W Aviation, as of October 31, 1997, had made over \$1,000 in late independent expenditures supporting Ricardo Sanchez, as a consequence of issuing the two \$999 checks, they were required to file a late independent expenditure report disclosing these expenditures no later than November 1, 1997. Respondents failed to file that report. By failing to file a late independent expenditure report, reporting these two \$999 expenditures in support of City Council

candidate Ricardo Sanchez, no later than November 1, 1997, Respondents Robert Kudler and K&W Aviation violated Government Code section 84204.

COUNT 4

On October 24, 1997, Respondents Robert Kudler and K&W Aviation issued a check for \$999 to “Norwalk Printing,” and on October 31, 1997, Respondents Robert Kudler and K&W Aviation issued a second check for \$999 to “Norwalk Printing.” Both expenditures were made to help finance a mass mailing on behalf of Lynwood City Council candidate Patricia Carr.

Having qualified as an independent expenditure committee, notwithstanding any other reporting requirements, Respondents Robert Kudler and K&W Aviation were required to file late independent expenditure reports disclosing any independent expenditures of \$1,000 or more, that they made in support of a particular candidate, during the late reporting period. Late independent expenditure reports must be filed within 24 hours of the time the expenditure was made.

Because Respondents Robert Kudler and K&W Aviation, as of October 31, 1997, had made over \$1,000 in late independent expenditures supporting Patricia Carr, as a consequence of issuing the two \$999 checks, they were required to file a late independent expenditure report disclosing these expenditures no later than November 1, 1997. Respondents failed to file that report. By failing to file a late independent expenditure report, reporting these two \$999 expenditures in support of City Council candidate Patricia Carr, no later than November 1, 1997, Respondents Robert Kudler and K&W Aviation violated Government Code section 84204.

COUNT 5

On October 24, 1997, Respondents Robert Kudler and K&W Aviation issued a check for \$999 to “Norwalk Printing,” and on October 31, 1997, Respondents Robert Kudler and K&W Aviation issued a second check for \$999 to “Norwalk Printing.” Both expenditures were made to help finance a mass mailing on behalf of Lynwood City Council candidate Dale L. Jones.

Having qualified as an independent expenditure committee, notwithstanding any other reporting requirements, Respondents Robert Kudler and K&W Aviation were required to file late independent expenditure reports disclosing any independent expenditures of \$1,000 or more, that they made in support of a particular candidate, during the late reporting period. Late independent expenditure reports must be filed within 24 hours of the time the expenditure was made.

Because Respondents Robert Kudler and K&W Aviation, as of October 31, 1997, had made over \$1,000 in late independent expenditures supporting Dale L. Jones, as a consequence of issuing the two \$999 checks, they were required to file a late independent expenditure report disclosing these expenditures no later than November 1, 1997. Respondents failed to file that report. By failing to file a

late independent expenditure report, reporting these two \$999 expenditures in support of City Council candidate Dale L. Jones, no later than November 1, 1997, Respondents Robert Kudler and K&W Aviation violated Government Code section 84204.

COUNT 6

On October 24, 1997, Respondents Robert Kudler and K&W Aviation made independent expenditures totaling \$1,000 or greater in support of five candidates for Lynwood City Council in the November 4, 1997 General Municipal Election. Respondents Robert Kudler and K&W Aviation thereby qualified as an independent expenditure committee, and were required to file a semi-annual independent expenditure report covering the period January 1, 1997 through December 31, 1997, no later than February 2, 1998. Respondents failed to file that report. By failing to file a semi-annual independent expenditure report no later than February 2, 1998, Respondents Robert Kudler and K&W Aviation violated Government Code section 84200, subdivision (b).

COUNT 7

On October 24, 1997 and October 31, 1997, Respondents made independent expenditures totaling \$9,990 in support of candidates for Lynwood City Council. Respondents filed no campaign disclosure statements disclosing these independent expenditures, as required by the Act.

In February 2001, the Enforcement Division served Respondents with investigative subpoenas. The items requested included any writings pertaining to any mailers prepared or sent on behalf of the campaigns of Armando Rea, Arturo Reyes, Ricardo Sanchez, Dale Jones, or Patricia Carr, and any documents pertaining to any campaign fundraisers, solicitations, contributions, or expenditures Respondents made on behalf of these candidates. Invoices, receipts, and other writings related to campaign activity of this kind are necessary to establish what contributions and expenditures were made by a committee, on what date, and to whom; all of which is information required to be reported on campaign disclosure statements. For that reason, the Political Reform Act requires that candidates and committees collect and retain such supporting documentation for four years from the date a campaign statement is filed.

In response to the investigative subpoenas issued in February 2001, Respondents provided a number of checks, including the ten checks detailed on page 4 above, signed by Respondent Robert Kudler, and drawn on the account of Respondent K&W Aviation. On March 16, 2001, when interviewed by Investigator Buckner, Respondent Robert Kudler stated that he had no other documents pertaining to Respondents' 1997 campaign expenditures.

By failing to maintain detailed records and accounts necessary for the preparation of independent expenditure reports, and late independent expenditure reports including, but not limited to, invoices and receipts, Respondents violated section 84104.

CONCLUSION

This matter consists of seven counts, which carry a maximum possible administrative penalty of fourteen thousand dollars (\$14,000). However, Respondents have no prior record of PRA violations. Further, Respondents do not appear to be experienced or knowledgeable with respect to the requirements of the Act. Respondents hired a well-known political consultant to assist them in their attempt to help finance the candidacies of certain candidates for the Lynwood City Council. Respondents contend that they relied in good faith on that consultant to meet all reporting requirements on their behalf. Statements given by the consultant to the Enforcement Division indicate that this reliance was unjustified. In any event, Respondents had a duty to ensure that their reporting obligations were satisfied, whether by themselves or by their consultant. The totality of the circumstances of this case justify imposition of the agreed upon penalty of twelve thousand dollars (\$12,000).